

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**MARK CLARKE, SANDRA CLARKE,
DAVID CLARKE, JUAN SOLIS
and KENNETH CONNALLY,**

Defendants.

No. 08-30170-DRH

ORDER

HERNDON, Chief Judge:

Now before the Court is the Government's February 4, 2010 motion to continue trial setting (Doc. 341). Specifically, the Government moves to continue the March 1, 2010 trial as co-defendants Mark Clarke, Sandra Clarke, David Clarke, Juan Solis and Kenneth Connally are fugitives and that it needs time to apprehend these individuals. Clearly, the Court finds that under the circumstances a continuance is warranted. Pursuant to **18 U.S.C. § 3161(h)(3)(A)**, the Court **GRANTS** the motion to continue (Doc. 341). The Court **CONTINUES** the jury trial scheduled for March 1, 2010 to Monday May 10, 2010, at 9:00 a.m.

As noted above, the Court these co-defendants are still at large and have not yet been arraigned. Because the Speedy Trial clock does not begin to run until the last co-defendant is arraigned, the 70-day window for conducting this trial has not yet come into play under the Speedy Trial Act. ***See United States v. Larson,***

417 F.3d 741, 745 n.1 (7th Cir. 2005) (“In the typical joint trial, the Speedy Trial clock begins when the last codefendant is arraigned.”) (citing *United States v. Baskin-Bey*, 45 F.3d 200, 203 (7th Cir. 1995); *Henderson v. United States*, 476 U.S. 321, 323 n.2 (1986); 18 U.S.C. § 3161(h)(7)); *United States v. Souffront*, 338 F.3d 809, 835 (7th Cir. 2003) (The Court found that the seventy-day clock commenced the day a fugitive – also the final co-defendant in the case - was arraigned). Thus, there is no need to account for excluded time due to trial delays, such as when a trial is continued.

Should either party believe that a witness will be required to travel on the Justice Prisoner and Alien Transportation System (JPATS) in order to testify at the trial of this case, a writ should be requested at least two months in advance.

IT IS SO ORDERED.

Signed this 9th day of February, 2010.

/s/ David R. Herndon

**Chief Judge
United States District Court**